



The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: T.A.M., Inc.
File: B-224193
Date: September 26, 1986

DIGEST

1. Protest filed more than 10 working days after protester knew of bases for protest is untimely and will not be considered.
2. GAO will not review the Small Business Administration's compliance with its own internal guidelines for the Small Business Act's section 8(a) program absent a showing of possible fraud or bad faith on the part of government officials.

DECISIONS

T.A.M., Inc., protests the pending award of a contract for food services at Langley Air Force Base to another vendor under section 8(a) of the Small Business Act, 15 U.S.C. § 637(a) (1982). Section 8(a) authorizes the Small Business Administration (SBA) to enter into contracts with government agencies with procuring authority and to arrange for the performance of such contracts by letting subcontracts to socially and economically disadvantaged small businesses.

In a letter dated September 3, 1986, T.A.M., as the incumbent contractor at Langley, apprised the SBA of T.A.M.'s concerns regarding the government's decision not to procure the services by competition and objected to the SBA's alleged failure to consider the impact of that decision on T.A.M., a small business. T.A.M.'s protest to our Office, filed on September 23, parallels this letter.

Our Bid Protest Regulations, 4 C.F.R. § 21.2(a)(2) (1986), require, with certain exceptions not relevant here, that protests be filed within 10 working days of when the protester knew or should have known of the bases for its protest.

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Since it is apparent that T.A.M. was aware of the bases for its protest by September 3, but did not file a protest with either the Air Force (the contracting agency) or our Office within 10 working days of that date, the protest is untimely.

Moreover, the Small Business Act affords the SBA and the contracting agencies broad discretion in selecting procurements for the section 8(a) program. While the SBA's Standard Operating Procedure (SOP) does provide for SBA's making an impact assessment, the SOP represents internal SBA policies and guidelines, and we will not review SBA's compliance with those internal procedures absent a showing of possible fraud or bad faith. Logistical Support Inc., B-212082, July 6, 1983, 83-2 C.P.D. ¶ 64.

The protest is dismissed.

John F. Mitchell
for Robert M. Strong
Deputy Associate
General Counsel